

**MINUTES OF THE REGULAR MEETING OF
THE EDINA PLANNING COMMISSION
WEDNESDAY, APRIL 28, 2004, 7:00 PM
EDINA CITY HALL COUNCIL CHAMBERS
4801 WEST 50TH STREET**

MEMBERS PRESENT:

Chairman Byron, John Lonsbury, Ann Swenson, Helen McClelland, Michael Fisher, David Runyan, William Skallerud, Geof Workinger, Stephen Brown

STAFF PRESENT:

Craig Larsen and Jackie Hoogenakker

I. APPROVAL OF THE MINUTES:

The minutes of the March 31, 2004, meeting were filed as submitted

II. NEW BUSINESS:

S-04-3	Curt Frethan Preliminary Plat to Create One New Lot 6800 Indian Hills Road
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Mr. Larsen informed the Commission on March 1, 2004, the City Council voted to deny a subdivision of this property. Since that action the proponent has re-submitted a similar, but not identical proposal for a two-lot subdivision of the property.

Mr. Larsen explained the new request uses the literal language from our subdivision ordinance to calculate the dimensions of lots within the plat and surrounding neighborhood. This interpretation yields slightly different measurements with the need for a lot width variance disappearing.

Concluding, Mr. Larsen stated staff believes the new plat is not materially different from the original proposed subdivision and staff would recommend the Commission forward the application to the City Council with a finding that the new application is not materially different from the originally proposed plat.

The proponent Curt Frethan was present to respond to questions from the Commission along with interested neighbors.

Mr. Curt Fretham, 12716 Cedar Lake Road, Minnetonka, MN addressed the Commission pointing out as the Commission witnessed in the past it is very difficult to use Edina code language to calculate lot sizes in an area of irregular shaped and lakeshore lots. Mr. Fretham said he feels this literal interpretation of code made the most sense. Mr. Fretham concluded he would agree, if so ordered, with a 100-foot front yard setback from the road while maintaining 100 feet from the shoreline.

Mrs. Sharon Prevot, interjected and informed the Commission she along with other neighbors believed the Planning Commission meeting started at 7:30 PM not 7:00 PM and indicated many of her neighbors planned on attending the meeting this evening but have not yet arrived. Chairman Byron apologized for the time change indicating this is the first time the Commission has met at 7:00 PM, he added in no way was this change intended as a slight and told staff and the proponent the Commission will hear the two lot divisions out of order and continue with the hearing on the subdivision request at 6800 Indian Hills Road at 7:30 PM.

LD-04-3 Lot Division/Paul Schoenecker
5532-5534 Malibu Drive

Mr. Larsen informed the Commission the applicant is requesting a party wall lot division of an existing double bungalow. The property complies with ordinance requirements for a division of ownership.

Mr. Larsen concluded staff recommends approval.

Commissioner Swenson moved to recommend lot division approval. Commissioner McClelland seconded the motion. All voted aye; motion carried.

LD-04-4 Lot Division/Wally Irwin
6440 Tingdale Avenue

Mr. Larsen informed the Commission the proponent is requesting a lot line rearrangement to create a new lot line establishing two 75-foot lots where three are located. Mr. Larsen explained presently the property comprises three 50-foot lots with a house built near the corner, but not encroaching on the second lot. The proposed division would create two 75-foot lots. The new lot is more consistent with the lots sizes in the neighborhood and staff recommends approval

Commissioner McClelland moved to recommend lot division approval. Commissioner Skallerud seconded the motion. All voted aye; motion carried.

Chairman Byron stated it is 7:30 and asked Mr. Larsen to repeat his staff report for the benefit of newly arrived residents.

Mr. Larsen reiterated his staff report, and comments from Mr. Fretham.

Chairman Byron asked Mr. Larsen staff's opinion on the literal interpretation of the subdivision ordinance. Mr. Larsen responded staff agrees with the position taken by the proponent in calculating lot size, etc. Mr. Larsen pointed out this is not an area of rectangular lots and the case may be made that our ordinance better adapts to the more traditional rectangular lot sizes.

Mr. Fretham reiterated the difficulty in calculating lot sizes and told the Commission all zoning codes will be met and he also has no difficulty in one driveway serving both lots.

Commissioner Swenson asked Mr. Larsen if the City is changing the way it views lots sizes, etc. Mr. Larsen responded no – this proposal follows the letter of the ordinance. Mr. Larsen added the point he wants to make is that even with different ways of calculating lot dimensions the discrepancy between the approaches is a matter of feet. Concluding, Mr. Larsen said the proposal presented by the proponent this evening, in his opinion is different but not substantially different. It remains one lot with a request to create one new lot with staff recommending that the Commission forward this to the Council as presented noting the new application is not materially different from the originally proposed plan.

Commissioner Swenson asked the reasoning behind lots being “dropped” for this interpretation. Mr. Larsen said lots were dropped from McIntyre Pointe and Indian Hills Road because of the way the code was interpreted by the proponent. Continuing, Mr. Larsen noted the lots dropped off McIntyre are a result of where the 500-foot neighborhood is measured and the three lots dropped that are located near Indian Hills Road have no frontage on an improved street. City Code requires that all lots have at least 30 feet of frontage on an improved street. The three “dropped” lots (very near the subject site) do not meet that requirement.

Commissioner Swenson asked Mr. Larsen what the Council would be asked to approve. Mr. Larsen said the Council would be asked to act on what the proponent has presented to the Commission this evening

Commissioner Skallerud questioned why staff is recommending moving this forward to the Commission without “acting” on the specific proposal presented this evening. Mr. Larsen pointed out the Planning Commission voted to recommend subdivision approval of this property in January. At that time the vote was 7-1, adding staff believes the proposal this evening is not significantly different from the one the Commission approved. Commissioner Skallerud commented that makes sense to him. Continuing, Commissioner Skallerud noted this proposal could be viewed in a more positive light because a variance is not required; agreeing with staff that forwarding this to the Council makes the most sense. Commissioner Skallerud asked if other Commissioners feel the same.

Commissioner McClelland explained to members of the audience that the Commission is advisory to the City Council and by the past action of the Commission this subdivision was forwarded to the Council with the Commission recommending approval. Concluding Commissioner McClelland stated she has no problem moving this proposal forward to the council.

Commissioner Brown commented that while he understands what is being requested (creating one new lot) has not changed, in his opinion, eliminating the variance with a zigzag line confuses the plat making him more opposed. Continuing, Commissioner Brown added he is also confused with the literal interpretation of code as it relates to calculating lot dimensions. Mr. Larsen acknowledged it has been a struggle to correctly calculate lot dimensions for this proposal due to the unique and varied lakeshore lots and other irregular lots in the neighborhood. Concluding, Mr. Larsen noted that however one looks at the past and present submissions the calculations differ by a matter of feet.

Chairman Byron stated if he understands correctly if the Commission adopts staff’s recommendation the Commission is indicating that as a body our recommendation is unchanged from the action we recommended to the Council in November of 2003. Mr. Larsen responded that is correct. Chairman Byron asked if any Commissioner wants to speak to this.

Commissioner McClelland commented that while she supported the past request the request submitted this evening manipulates the code concluding in her opinion the previous proposal was best.

Mrs. Pervot, 6728 Indian Hills Road, addressed the Commission adding from what she has heard so far it appears the Commission is in favor of passing this proposal along to the Council. Mrs. Prevot told Commission Members at the last Council hearing neighbors were not permitted to speak and at this time they would like to present their proposal. Mrs. Prevot submitted to the Chair their agenda.

A discussion ensued with Commission Members in agreement to delay their vote allowing the neighboring property owners to present their agenda.

Ms. Louise Segreto, 6720 Indian Hills Road, told the Commission she has completely renovated her home and has invested much in her home. Mrs. Segreto said she is very opposed to this proposal. She added in her opinion it is a public safety issue. She pointed out if approved, as presented two homes will now be served from one driveway adding more traffic on Indian Hills Road, which would negatively impact her property. Ms. Segreto said at present there are times especially during inclement weather that she virtually slides down her driveway onto Indian Hills Road and with the addition of another home plus changes to the topography an even greater safety hazard will exist.

Mrs. Prevot told the Commission she understands by their comments that to the Commission this proposal isn't significantly different from the previous proposal, but it is to her. She pointed out with the proposed zigzag change to the lot line any future home would need to be located farther east which is closer to her property line. Mrs. Prevot stated she objects to that reiterating she objects to the proposal period. Continuing, Mrs. Prevot questioned the reasoning behind eliminating Ms. Segreto's property from the area calculation. Mrs. Prevot pointed out the Segreto property is within the 500-foot neighborhood and Ms. Segreto pays property taxes. Her property should be included. Mrs. Prevot also pointed out that it appears to her, that the circle indicating the lots falling within 500 feet of the perimeter of the property is unusually shaped and asked if the circle correctly depicts the 500-foot neighborhood. She pointed out it doesn't appear to be much of a circle.

Mrs. Prevot added another concern she has is that all properties that have lakeshore on Arrowhead Lake are not included in the 500-foot neighborhood nor did they receive notice of this hearing from the proponent, adding she doesn't believe that is right. She stressed this subdivision impacts all properties with lakeshore, not only the properties that fall within 500 feet. Mrs. Prevot reported all properties on Arrowhead Lake pay association fees and to have some of these properties not included in the 500 foot neighborhood isn't right. Concluding, Mrs. Prevot said this community is an Arrowhead community and in her opinion a moratorium should be placed on subdivisions in an established neighborhood.

Mr. Wothe, 6804 Indian Hills Road, told the Commission he feels strongly that the lots excluded especially the ones addressing off Indian Hills Road should be included in the lot size calculations. Mr. Wothe stated the intent of the ordinance should be maintained and this interpretation does not honor that intention.

Mr. Joslyn, 6718 Indian Hills Road, addressed the Commission and informed them he, along with his neighbors, have been struggling with this issue

since Thanksgiving. He added he is frustrated by the ever-changing figures, albeit by only a few feet. Continuing, Mr. Joslyn said in his opinion the surveys or the way the lot sizes “shake out” isn’t correct. He questioned who is responsible for the discrepancies, Mr. Fretham? Mr. Fretham interjected he hired a licensed Registered Land Surveyor who signed off on the plat, adding he had nothing to do with the calculations. The surveyor interpreted the code and the result of that interpretation is presented this evening. Mr. Joslyn asked why the survey of his lot differs from County records? Mr. Joslyn suggested that all lots within the 500-foot neighborhood should be re-surveyed when a subdivision is proposed. Chairman Byron said it appears to him the City can’t do anything about County records. Chairman Byron questioned Mr. Larsen on the use of County plats to obtain lot information. Mr. Larsen said all plats are recorded at the County and are of record. Mr. Larsen said the City of Edina has never required that each lot be resurveyed within a 500-foot neighborhood. That expense would be immense. Mr. Joslyn reiterated his survey differs from County records and he doesn’t feel that just because it is expensive that all lots shouldn’t be resurveyed during the subdivision process.

Chairman Byron said this issue can’t be resolved at this time and if Mr. Joslyn feels the code should be rewritten or clarified he should put his request in writing and Mr. Larsen will forward it to the Council.

Mrs. Prevot said she also has some concerns with how this project has been presented; she reiterated the circle around the subject site differs from previous submittals. Mr. Larsen asked Mrs. Prevot to put her concerns in writing and he would try to get them answered for her as soon as possible.

Mr. Henry Buchwald, 6808 Margaret’s Lane, told the Commission his neighborhood is concerned with what they are seeing occur all around them. He added how he views this proposal is “an individual who wants to make a profit vs. a neighborhood that wishes to maintain itself”. Continuing, Mr. Buchwald stated the proponent desires to make a profit from land development and while that is common practice redevelopment takes on a different meaning when it occurs in an established neighborhood. Mr. Buchwald said he is perplexed the figures keep changing. Referring to the previously submitted graphic, Mr. Buchwald noted the neighborhood has voted this subdivision down and he would like the Commission to uphold the decision of the neighbors.

Mr. Wothe asked the Commission to note that property owners who did not receive notification who have lakeshore property are also opposed to this proposal as previously indicated by Mr. Buchwald. Mr. Wothe reiterated he continues to be troubled by the lots removed from neighborhood calculations. Concluding he believes they should be included.

Mr. Fretham said he understands the feelings expressed but his surveyor followed code and in this situation with the different lot configurations the Edina

code is difficult to interpret at best. Mr. Fretham said with regard to comments about the proposed driveway that the driveway will remain in the location it is in today. There will be no change. Concluding, Mr. Fretham stated he paid a professional licensed surveyor to interpret the code and the results are before the Commission this evening, adding he is sorry for any confusion.

Commissioner Brown reiterated he opposes this subdivision request. He acknowledged the neighborhood is complicated but in his opinion a dangerous precedent will be set if the Commission or Council were to allow the zigzag. Adding the zigzag manipulates the code thereby eliminating the lot width variance.

Commissioner Fischer explained he is new to the Commission and questioned if a variance is part of the subdivision process. Mr. Larsen explained the variance previously requested is a variance from the subdivision ordinance not the zoning ordinance and is handled at the Commission and Council level. The Zoning Board of Appeals does not hear it as it hears other variances from code. Commissioner Fischer said in this instance he doesn't believe there is a hardship and the depicted zigzag, in his opinion, is a "stretch".

Commissioner McClelland asked Mr. Larsen to explain with graphics the changes in calculations noting the changes between previous and present plats. With graphics Mr. Larsen pointed out how the code was interpreted and the resulting calculations.

Commissioner Skallerud asked for clarification on the proposed driveway. With graphics Mr. Fretham pointed out to the Commission the driveway will remain as is allowing for changes to serve another home.

Commissioner Skallerud moved to forward the present application to the City Council with a finding that the new application is not materially different from the previously proposed plat. Commissioner McClelland seconded the motion.

Commissioner Brown questioned if a yes vote is saying to the Council we support this application. Chairman Byron responded that is not how he views it. What the Commission is saying is that we as a body do not feel the proposal has changed significantly from what was previously presented. The vote in no way indicates support of the present application.

Ayes; Fischer, Swenson, Lonsbury, McClelland, Runyan, Brown, Workinger, Skallerud, Byron. Motion carried.

P-04-2

**Final Development Plan
Murphy Automotive
5354 France Avenue South**

Mr. Larsen informed the Commission Mr. Murphy, property owner is requesting a Final Development Plan to expand and renovate an existing gas /car wash/car repair facility. Mr. Larsen explained the site is small and to achieve the desired result multiple variances are required.

Mr. Larsen concluded staff wants to recommend approval of the Final Development Plan however, is concerned about future reuses given the magnitude of the proposed expansion. If approved approval in any form should be conditioned on the following:

1. Watershed District permits
2. Long term lease agreement for off-site parking
3. No Sunday business operations
4. No re-establishment of car wash or fuel service
5. Closure of two curb cuts nearest intersection of 54th and France Avenue
6. New pad for bus bench setback farther from France Avenue
7. Increase the parking setback along France Avenue to 5 feet to allow for a better planting bed
8. Add over story deciduous trees to planting bays adjacent to France Avenue and West 54th Street
9. Install new fence as proposed on west side
10. Remove and replace landscaping on the west
11. Save and trim existing landscaping on north side
12. No accessory retail sales

The proponent, Mr. Tim Murphy was present to respond to questions.

Commissioner Workinger observed that visually the setback from West 54th Street appears different from the plans. Mr. Larsen responded the visual discrepancy could be the result of landscaping and City right-of-way.

Commissioner McClelland referred to the staff report, under recommendation, #2, and asked Mr. Larsen what he means by long-term lease. Mr. Larsen said he believes in this instance if the Commission were to approve the Final Development Plan a long-term lease is needed. City Ordinance only allows for the use of leased parking if the term is not less than 25 years. So in order for leased parking to be permitted at this site Mr. Murphy would have to negotiate a lease with the church. Continuing, Mr. Larsen added this is a site with limited parking; however, it is larger than some of the City's "corner" service

stations. Mr. Larsen explained in the 1970's the City decided to limit gas stations but it was found that the gas stations serve the residents and are a good amenity to our City. Commissioner McClelland said her concern is with the parking of automobiles that need repair, etc, and the potential for stacking problems, parking in street, etc.

Commissioner Skallerud said initially he was very concerned about this proposal, adding he still has considerable concerns, but with the elimination of the car wash and fuel pumps on this site a benefit can be seen. Continuing, Mr. Skallerud stated it appears to him the car wash and fuel pumps moved across the street, to Mr. Murphy's other facility so the quick in and out trips have been relocated, however, the on-site parking demand at the subject site for "longer term" parking will increase. Commissioner Skallerud stressed that he doesn't want to see cars parked on West 54th Street. He concluded by adding since he has been on the Commission this is the most aggressive proposal he has viewed.

Chairman Byron asked Mr. Murphy if he knows the square footage of the Grandview property. Mr. Murphy responded "off the top of his head" he isn't sure of the square footage of Grandview adding he knows the Grandview site is much larger than the subject site. Mr. Murphy said Grandview has 12 bays while the subject site is proposed at seven bays. Continuing, Mr. Murphy informed the Commission this site is very difficult to work with. Mr. Murphy explained he has operated on this corner for over 26 years, adding his goal is to create a more efficient site and at the same time renovate the site. Mr. Murphy said he believes with the help of parking spaces leased from the church parking should not be a problem on site or on West 54th Street. He said the nature of this business is that there will be fewer trips to this station and the "wait time" is longer. Concluding, Mr. Murphy explained this type of facility is "less busy", with few, if any, quick in-and-out trips, that are seen at full service/convenience service stations.

Commissioner Workinger asked Mr. Murphy if he is committed to closing the "gas" business at this site. Mr. Murphy said there would be no fuel service pumps at this site.

Commissioner Swenson asked Mr. Murphy if he knows how many parking spaces are located at the Grandview Station. Mr. Murphy responded to the best of his knowledge there are around 44 parking stalls.

Commissioner McClelland asked Mr. Murphy if the church is amenable to entering into a leasing agreement. Mr. Murphy responded at this time that issue is being negotiated. He said his intent is to have all employees park on the leased spaces on church property. Commissioner McClelland asked how this agreement would be handled. Mr. Larsen responded there would need to be a recorded lease with a clause indicating the number of years the lease runs.

Commissioner Workinger commented the site is zoned PCD-4 questioning if in the future another full service gas station could relocate on this site. Mr. Larsen said he believes that would be possible. Commissioner McClelland added if she understands the plans correctly it appears the gas storage tanks will be removed. Mr. Murphy responded that is correct the storage tanks will be removed.

Commissioner Brown asked if restricted covenants are needed for this property if the Commission were to approve the request with conditions. Mr. Larsen responded when a variance is requested the Commission and Council can set conditions that would run with the property. Mr. Larsen added a Proof of Parking Agreement could also be a condition of approval.

Commissioner Workinger asked Mr. Murphy how patrons would pick up their vehicles. Mr. Murphy said cars would be picked up during the normal business hours. He said rarely would a car need to stay on the site of longer than a day.

Commissioner Skallerud said in his opinion this proposal really pushes the envelope and he is very uncomfortable with such an aggressive plan. He added in all good faith he couldn't support the proposal as submitted. It is too dense, the area too busy, and the site also abuts residential properties and neighborhood.

Commissioner Skallerud moved to recommend denial of the Final Development Plan. Commissioner Swenson seconded the motion for discussion purposes.

Commissioner Fischer commented he is also worried about the aggressiveness of the proposal and is worried about the safety of vehicles and pedestrians as they navigate through the site. He questioned if the inner circulation on the site would work safely. Continuing, Commissioner Fischer said he agrees that this proposal "pushes it" and asked Mr. Murphy if he ever considered eliminating a bay or two.

Mr. Murphy explained that architecturally the placements of the proposed new bays "square" off the building. Mr. Murphy said he would be agreeable to looking into eliminating a bay. Continuing, Mr. Murphy said the way Edina's ordinance is written, at least in his opinion, it is written for the typical "gas station", the proposed use is something different so it was difficult to "make it work" when nothing in the code really addresses this type of use.

Commissioner Runyan said he is somewhat confused with the maneuvering ability. He added he doesn't think 25 feet is adequate to pull in and out of a service bay. Mr. Murphy said in his experience 25 feet is adequate.

Chairman Byron asked Mr. Murphy to estimate how many cars would be serviced during a typical business day. Mr. Murphy said with 7 bays, 3-4 vehicles per bay for a total of 28.

Commissioner McClelland asked Mr. Larsen the number of curb cuts that would be eliminated as a result of this proposal. Mr. Larsen responded two curb cuts will be eliminated, one on France Avenue and one on West 54th Street closest to the intersection. Continuing, Commissioner McClelland said in her opinion she agrees with Commissioner Skallerud's comments that this proposal is aggressive. She added there are too many bays, and reducing the number of bays would be better for the site. Commissioner McClelland told Mr. Murphy it appears some Commission Members are having a difficult time with this proposal suggesting that Mr. Murphy revise his plan and come back before the Commission with a revised plan.

Mr. Larsen added Mr. Murphy could either continue this to the next meeting of the Planning Commission or move this plan forward to the Council with the recommendation from this meeting.

Chairman Byron said he tends to agree that presently City Code language is written for the traditional service station and over the past 30 years enormous changes have occurred in the service station business, to include additions of car washes, convenience stores, and the like. Chairman Byron said at this time the Commission faces a special challenge in the re-tooling of our small commercial corners (including the subject site). Chairman Byron pointed out these corners are not where single-family homes would be constructed, and current redevelopments of service stations always seem to include convenience facilities. Concluding, Chairman Byron said the Commission does desire to help in the "remodeling" of our small business corners, it is important to keep these corners "healthy", but it is difficult at times especially when so many variables are unknown.

Mr. Murphy explained it is his goal to renovate this corner. He pointed out directly across West 54th Street Ed Noonan did a beautiful job renovating his site. Mr. Murphy reiterated his goal is to improve the site, acknowledging the limits are being pushed, but in his opinion this use of the site will reduce the traffic at this corner.

Commissioner Runyan told Mr. Murphy if he decides to return with a different plan to please submit a plan to scale.

A brief discussion ensued with Chairman Byron calling the question. Motion to recommend denial of the Final Development Plan for Murphy Automotive approved.

II. ADJOURMENT:

The meeting adjourned at 9:00 PM

Jackie Hoogenakker